IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3622 of 1989

with

SPECIAL CIVIL APPLICATION No 10400 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHAUDHARY KHANJIBHAI VELJIBHAI

Versus

MEHSANA DIST.PANCHAYAT

Appearance:

1. Special Civil Application No. 3622 of 1989
   MR NR TANDEL for Petitioner No. 1
   ..... for Petitioner No. 2-10
   MR SUNIL K SHAH for Respondent No. 1
   MR LR PUJARI A.G.P. for Respondent No. 2-3
2. Special Civil Application No. 10400 of 1995
   MR NR TANDEL for Petitioner No. 1
   ..... for Respondent No. 1

CORAM : MR.JUSTICE N.G.NANDI

Date of decision: 29/06/2001

COMMON JUDGEMENT

1. Rule. Mr.Sunil Shah learned counsel for respondent No.1 and Mr.Pujari learned A.G.P. for respondent Nos.2 and 3 waives service of rule. On the request of learned counsel these petitions are taken up today for final hearing.

2. Heard Mr.M.M. Prajapati for Mr.N.R. Tandel, learned counsel for the petitioners and Mr.L.R. Pujari, learned A.G.P. for the respondents No.2 and 3 and Mr.Sunil Shah learned counsel for respondents No.1.

3. In this Special Civil Application under Article 226 of the Constitution of India, the petitioners have been challenging the circular dated 22.12.88, whereby respondents No.2 and 3 decided not to make any appointments from the waiting list, in view of the new recruitment rules, for appointment to the post of Gram Sevak, having come into force with effect from 5.5.88.

4. The say of the petitioners in both the petitions is that respondent No.1 issued an advertisement dated 5.4.85 inviting application for the posts of Gram Sevak. The petitioners applied for the posts of Gram Sevak pursuant to the said advertisement and were selected for the post of Gram Sevak and all the petitioners were placed in waiting list. The petitioners claim appointment to the post of Gram Sevak on the basis of they having been placed in the waiting list for appointment to the post of Gram Sevak. Perusal of circular dated 22.12.1988 suggest that the recruitment rules for appointment to the post of Gram Sevak were amended and the amended recruitment rules for appointment to the post of Gram Sevak came into effect from 5.5.88 i.e. subsequent to the selection and placement of the petitioners in the waiting list for the post of Gram Sevak. Circular dated 22.12.88 also suggest that in view of the new recruitment rules having come into force no appointment shall be made from the waiting list to the post of Gram Sevak.

5. It is a settled legal position that right to appointment cannot be claimed simply because a person is placed in the waiting list since waiting list does not confer any legal right to the post in favour of a person placed in the waiting list. Mr.Shah learned counsel for the respondent No.1 has placed reliance on the decision in the case of Rathodbhai J Dungarbhai and others v. State of Gujarat and others reported in 1995 (1) G.L.H. 180 wherein it has been held that the right of mandamus under Article 226 of the Constitution of India can be

issued only when there is a legal right and the appointment is not a matter of right. Hence mandamus cannot be issued.

6. Both the petitions are squarely covered by the principle laid down in the case of Rathodbhai J Dungarbhai and others v. State of Gujarat and others (Supra). In view of the above legal position, I do not find any merits in the contentions raised by the petitioners and petitions being devoid of substance are liable to be dismissed. In the result both these petitions fail. Rule discharged. No order as to costs.

29.6.2001. (N.G. Nandi, J.)

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